

Who Owns Wind?

Small Farmers Need to be Careful Before Signing Away Their Rights.

A Cautionary Tale From Rural Ontario

BY TIM SHUFF - www.smallfarmcanada.ca

Paul Chantree is the last person you'd expect to be opposing wind power. The backyard of his tidy, red brick farmhouse bristles with weather observation equipment, antennas for amateur radio and the solar panels that provide a portion of his home's electricity and hot water. Chantree, 61, and his wife, Rita, moved up to a 100-acre farm in Ontario's rural Melancthon County from Toronto in the early 1970s. Chantree works as a beekeeper, operates his own weather station and maintains a local weather website. When wind energy developers from a small private company called Chinodin Wind Power came to his door in 2001, Chantree gladly shared his weather data and later signed an option agreement to lease his land to the company. It was a chance to make up to several thousand dollars in lease payments each year and to do his part to support clean, sustainable energy. But now that one of the 1.5 megawatt General Electric wind turbines in the Melancthon I Wind Project is operating on their land, Paul and Rita Chantree wish they'd never signed up: "If they came to us today and offered to put two more on our property, we'd say no."

At its best, wind energy promises clean energy and regular income that will help farmers stay in business and help farmland stay in production, but Paul Chantree claims that his experience as renewable energy "guinea pig" should be a caution to others to think twice when wind developers come knocking.

The 45 turbines in the Melancthon I Wind Project are spread out over 2,500 acres of privately owned land in Melancthon, a small township in Dufferin County two hours' drive northwest of Toronto. Alongside urban refugees living on two-acre severances and cash croppers who farm vast acreages of soybeans, corn, canola or potatoes, the region is home to many hobby farmers like Paul Chantree and small family farmers raising livestock and growing feed crops on traditional 100-acre parcels. Dufferin County is one of the highest areas of southwestern Ontario, known as "headwaters country" because several rivers originate in this height of land that's sandwiched between lakes Ontario, Erie and Huron. The same harsh climate that made it one of the last areas in southern Ontario to be settled by farmers in the 18 also makes it good for wind—it's flat tabletop country with a cool climate where the wind blows consistently year-round, and it's one of the epicenters of Canada's new wind energy boom.

Wind technology has converged with energy politics to make wind farming a hot business. **Mainstream environmental groups, who seem to be the hardest to please when it comes to new development, love wind—the David Suzuki Foundation is**

one example—and the scattered groups of local residents who oppose it are easy to dismiss as "not in my backyard" cranks who are against "green" power for selfish reasons.

The government of Canada plans to invest \$920 million in wind power over the next 15 years and increase wind power generation five times by 2010. Across Canada, developers are asking farmers to sign option agreements that give up the wind rights on their land in exchange for annual lease payments.

This summer, new wind energy projects axe scheduled to go up on rural land in eight provinces.

In Ontario, where an electricity-desperate government has committed to increase wind generation by 80 times 2003 levels by 2008, the wind boom is being felt all along the heights of the Niagara Escarpment, which runs right through Dufferin County, and along the shorelines of the Great Lakes. Last November, the province announced six new large wind projects including Melancthon II, an additional 88 turbines for Melancthon Township that are due to be operating by spring 2007.

Provincial renewable energy supply contracts include deadlines and financial incentives for developers to get these projects online as quickly as possible. A company may have less than two years to build a wind project that will stand for half a century. There's little time to finesse the local politics; the priority is to finish on schedule. The result in Melancthon, says Chantree, is that "it seems that we've been on a fast track from day one and we continue to be on a fast track."

Chinodin Wind Power's option agreement offered farmers some attractive

proposals, including plans for landowners to form cooperatives to pool income and have a stronger say in the project's development, as well as a guaranteed minimum annual lease payment of \$5,000 a year. Perks like these convinced Chantree to sign on, but were dropped from the option agreements in 2004, when the small player Chinodin sold its stake to Canadian Hydro Developers, a Calgary-based renewable energy company. Landowners were already committed, and the climate of urgency and the excitement to see the \$128 million Melancthon I development come to fruition discouraged quibbling over details of the new lease.

Chantree says the typical document-signing procedure was a "knock on the kitchen door at nine o'clock in the morning" from someone asking for a signature. "It's highly unusual for a company of this stature to have an agent come knocking on the door with a 10-15 page option—to-lease agreement and ask you to sign it. I know of one case where somebody signed right on the spot because they were in a hurry to get to work." He wonders how many of his neighbours took the time to scrutinize the paperwork or consult a lawyer, since the company didn't offer any money to seek legal advice. "I have a concern that a lot of agreements



Dorothy Matthews operates a tractor on the 100-acre farm she operates with her husband Garry. The couple, who have 30 head of cattle, are strong boosters for Melancthon and proponents of wind power.

have been signed with people that are not hilly cognizant of what they've actually agreed to."

Contrary to the community approach that Chantree had envisioned, he says he didn't really know what his neighbours were doing or signing—it was every farmer for himself. Aside from a general mailing to all households announcing the project, "no abutting landowner received any notice whatsoever from the council to say there was going to be a generator located next door," said Chantree. But as word got out that the neighbours were signing, there was pressure to join in. "The problem is, you say 'I don't want one.' And then you hear that the neighbour is going to have three, so you think, 'I might as well have one and get paid for it.'"

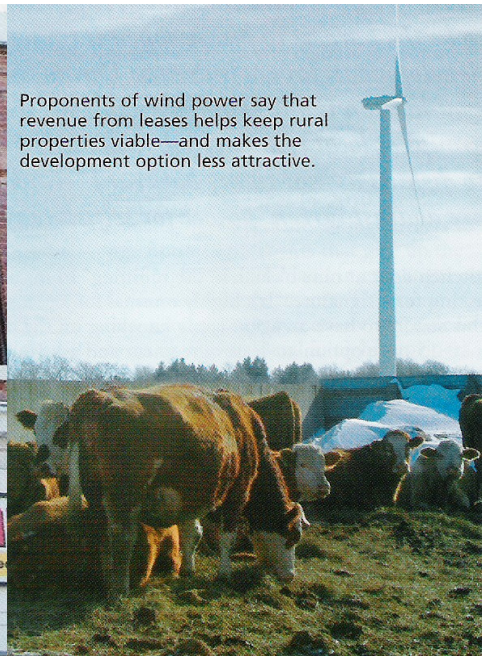
Signing an option agreement is a crap shoot that involves farmers giving up the wind rights to all of their land without really knowing what the outcome will be: how many turbines they might get, if any, or where they will be placed. Many who signed options didn't get turbines at all. And of the 20 or so who did, some got four or five while others, like the Chantrees, only got one, leaving them to wonder if the income will be enough to compensate for the rights they've given up.

Meanwhile, the many rural residential landowners who live on lots smaller than the 50 to 100—acres sought by the wind developers face the prospect of living in the middle of a wind farm without hope of cashing in. This is a major drawback of large wind projects like Melancthon: they create "turbine envy," a divide between participant landowners who get turbines and other rural residents who don't. There was an early hope that the taxes generated by the development would offset this inequity—even some pie-in-the-sky dreams of every resident in the township living tax-free or getting free electricity. But then the provincial government assessed the million-dollar turbines at \$40,000 apiece. At 2005 tax rates, the township collects \$600 for each turbine—a total of just \$27,000 per year. Under these rules, says Chantree, "It is of absolutely no benefit to non-participating landowners. In fact they have been completely left out of the picture, ignored." Critics say that Melancthon's politicians failed their constituents on the wind issue by neglecting the interests of the majority of residents who can't or won't accept a turbine on their property,

Melancthon Mayor Garry Matthews proudly says that on summer days when people in Toronto are complaining about 40-degree weather and stifling humidity he'll be happily out in his fields on his tractor, enjoying the cool, steady breeze that blows across his township almost constantly. "I've often said we'll have windmills all the way from here to Mount Forest and down to



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Proponents of wind power say that revenue from leases helps keep rural properties viable—and makes the development option less attractive.

Amaranth because it's high and we've got wind and it's marginal land."

Matthews, 69, a retired high school teacher with a 100-acre farm and

30 head of cattle, is a strong booster for Melancthon and a proponent of wind. He had to excuse himself from council meetings on Melancthon I because of a conflict of interest—he's got two new wind turbines on his land.

Sitting at the kitchen table in his country kitchen, Matthews is wearing a gray custom sweatshirt silk-screened with pictures of turbines and the words "Melancthon Wind Farm." He explains how pleased he is with Canadian Hydro Developers' work in the community. "They're very good, this company. They are very good working with the farmers. They don't want to interfere with agriculture. During the process, if there were some changes you wanted made, they'd do it for you." He says the company accepted farmers' input on the location of the turbines and the 14-metre-wide access roads that they built to get heavy trucks and construction cranes into the turbine sites. His new road covers the wettest piece of his pasture, and lets him drive to the back of his property.

To Matthews, the speed and simplicity of signing a lease with a big company was a better approach than trying to organize a mechanism to distribute profits among neighbours. He took his lease to two lawyers and was happy with the agreement. "You knew exactly what was going on," he says. "The company didn't hide anything. It's your own fault if you didn't know what you were signing."

A 1.5 megawatt GE wind turbine at an average site in Ontario can be expected to earn its owner \$280,000 per year at an electricity price of eight cents per kilowatt hour. The terms of the lease agreement that the landowners signed are confidential and can't be confirmed, but sources in the community say that the option lease payment started at \$1,500 and climbed to \$2,500 by the end of the five-year option period. Royalties now that the project is operational are said to start at 2.5 per cent of each turbine's gross annual electricity sales—equivalent to \$7,000 if the turbines sell \$280,000

worth of electricity—with the percentage increasing over time. Unlike some leases, there is no guaranteed minimum payment, so the farmer won't make money unless their turbine is making money. Canadian Hydro won't comment on lease details, but states that farmers can expect to earn between \$5,000 and \$7,500 per year. The lease agreement is for an initial period of 20 years, with two, ten-year renewal options at the company's discretion.

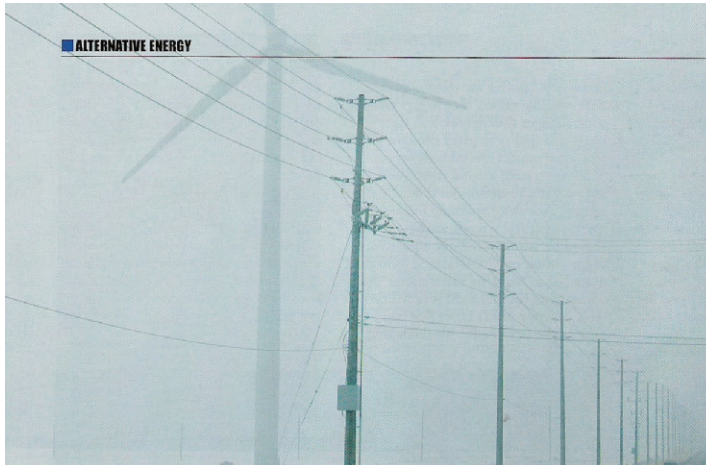
By North

American standards, where the industry is in its infancy and the lease rates are lower than in Europe, these are good terms. Garry Matthews, with his two turbines, stands to earn up to \$15,000 additional income on his farm beginning this year; and if the turbines run reliably and the price of electricity goes up, he could earn a lot more. Matthews believes it adds up to a great deal for farmers, whose only other option to boost income might have been to sell off their land piece by piece. "To me, it's kept the farm as a farm. Now the land is protected as a farm on the small acreages."

While most of Melancthon's new wind farmers may be dreaming of future tropical vacations financed by royalties from Canadian Hydro, Paul and Rita Chantree are more concerned with tangible effects they're experiencing now, changes they're seeing in the landscape that they never thought about when the project existed only on paper. The countryside around their home is dotted with 80—metre-tall towers, each capped with three spinning blades 40 metres long and aircraft warning lights that blink white in the day and red at night—what one local farmer, John Parr, describes as "a Darth Vader theme park." Their quiet country road is lined with concrete utility poles that carry the 55 kilometres of new powerlines, and the working turbines produce a metallic whooshing noise and a slight whistling off the blades that's inaudible over traffic sounds near highways but intrudes on the natural silence of a deserted lane or field.

"It's become an industrial site instead of countryside," says Rita Chantree, citing the pain of

seeing maple trees cut down to make way for access roads, turbines and hydro poles. "We see everything we've given up but we don't know if we're going to gain anything. We bought a pig in a poke."

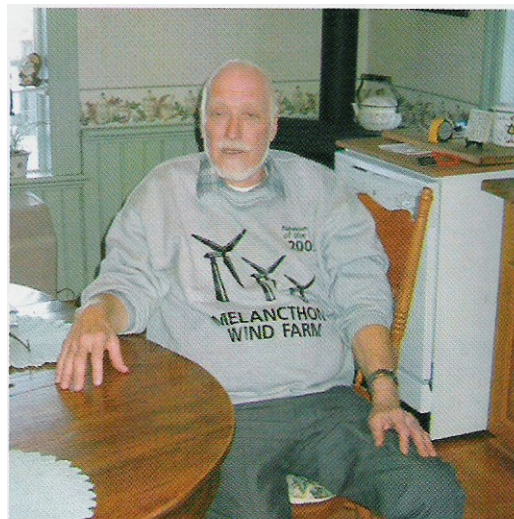


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Even Mayor Matthews admits that Melancthon made a few mistakes in phase one, notably the placement of a couple of turbines only about 45 metres from public roads, and says he's hearing a lot of negative comments now that the project is up and running. "A lot of people didn't know how big they'd be until they went up," he says. The towers have a five-metre base diameter and the top of the rotating blades is about 120 metres high. "It's the visual effect that people don't like because it's change. You either like them, or you don't like them, and if you don't like them, you find everything wrong with them. I think a lot of the issue is that

they're not getting any money for them. A lot of people say that if you'd give us some compensation, we'd go away"

It is not as simple as blaming the developer, who conducted a thorough public consultation process and has tried to address community concerns all along. Most recently the company said it's looking for a way to light the towers that will be less visible from ground level and promised to bury all of the Melancthon II power lines underground. Chantree steers



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the discussion away from blame because all the stakeholders made mistakes. The federal and provincial governments pushed renewable energy projects too quickly without concern for the affected communities. The farmers were too quick to sign on the dotted line. And the town council was left to plan an unprecedented development with no expert guidance. What's important is that there's now a precedent to help other communities who are considering wind power. In time, the Melancthon Wind Project may turn out to be a great deal for farmers and their community or it may not.

Meanwhile, there's no harm in waiting to find out. The wind won't run dry. That's why they call it renewable.